

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

IN RE: Bard IVC Filters Products Liability  
Litigation

No. 2:15-MD-02641-DGC

**[PROPOSED] ORDER ESTABLISHING  
COMMON BENEFIT FUNDS**

(Assigned to the Honorable David G.  
Campbell)

Case Management Order No. 6 (“CMO No. 6”) stated, “At an appropriate time, Plaintiffs’ Co-Lead counsel shall ask the Court to direct that two interest-bearing accounts be established to receive and disburse funds as provided in this Order... The first fund shall be designated the ‘Bard IVC Filters Fee Fund’ and the second fund shall be designated the ‘Bard IVC Filters Expense Fund.’” CMO No. 6 also stated that “the Court will appoint a qualified certified public accountant (the “CPA”) to serve as escrow agent over the Funds and to keep detailed records of all deposits and withdrawals and to prepare tax returns and other tax filings in connection with the Funds. Such subsequent Order shall specify the hourly rates to be charged by the CPA and for the CPA’s assistants, who shall be utilized where appropriate to control costs. The CPA shall submit quarterly detailed bills to the Court and to Plaintiffs’ Co-Lead Counsel.”

Plaintiffs have now moved for an order establishing the two funds to receive and disburse funds for the purposes and pursuant to the limitations instructions set out in CMO No. 6. Plaintiffs have also moved to amend CMO No. 6 to allow for the appointment as escrow agent not of a CPA, but of Citibank N.A. (“Citibank”), a bank which regularly serves in the capacity of

1 an escrow agent, to serve as escrow agent for the Bard IVC Filters Fee Fund and Bard IVC Filters  
 2 Expense Fund. Further, although CMO No. 6 contemplated a subsequent order that specified  
 3 hourly rates for the CPA, Plaintiffs propose that the escrow agent's fees will be as set forth in  
 4 Schedule B to the Escrow Agreement to be entered into with Citibank. Such fees would be paid  
 5 from the Bard IVC Filters Expense Fund and considered a shared cost, as CMO No. 6 states.  
 6 Plaintiffs' Co-Lead Counsel would be responsible for arranging for the preparation of tax filings  
 7 related to each account.

8 The Court approves Plaintiffs' proposal, and hereby appoints Citibank to serve as Escrow  
 9 Agent, to perform the duties as described in CMO No. 6, and approves the fees as set forth in  
 10 Schedule B to the Escrow Agreement. The Court hereby amends CMO No. 6 so that, in Section  
 11 IV(A), references to "the CPA" are replaced by the term "Escrow Agent." Also as requested,  
 12 Plaintiffs' Co-Lead Counsel will be responsible for arranging for the preparation of tax filings  
 13 related to each account.

14 Finally, the Court approves the Plaintiffs' Steering Committee's request to amend CMO 6  
 15 to provide for an increase in the assessments for common benefit attorneys' fees and costs, from a  
 16 total of eight percent (six percent for fees and two percent for costs) to a total of fourteen percent  
 17 (nine percent for fees and five percent for costs).

18 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
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David G. Campbell  
 United States District Judge